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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,210	04/16/2004	Colin R. Taylor	TAYL-I	1153
<div>7590 07/13/2007</div> <div>LEONARD COOPER 999 GRANT AVENUE PELHAM, NY 10803</div>				
			<div>EXAMINER</div> <div>ROZANSKI, MICHAEL T</div>	
			<div>ART UNIT</div> <div>3768</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>07/13/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/826,210

Applicant(s)

TAYLOR, COLIN R.

Examiner

Michael Rozanski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 6/11/04.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election of Group I (claims 1-13) in the reply filed on 5/18/07 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim Objections

2. Claims 1, 3, 4, and 11 are objected to because of the following informalities:

-In claims 1, 3, 4, and 11, all instances of "said first patient" should be changed to "the first patient" because the former inferentially claims the human body. Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 8, the phrase "such as" renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention.

See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. ***Claims 1-4 and 7-13*** are rejected under 35 U.S.C. 103(a) as being unpatentable over ***Kang et al*** (US 2003/0139652) in view of ***Miller et al*** (US 6,611,630).

Kang et al disclose a method for pain diagnosis wherein pain areas, or shapes, are entered into an editable 3D human body model, which represents an image of a patient, that comprises regions of the body with indicia, such as different RGB color-coding schemes or symbols, according to the different patients and the severity of pain (para. [0031-0034]). The diagnosis module 20 electronically compares and analyzes the patient's painful sites from the areas input and areas versus the common pain patterns (para. [0041]). Submodule C 24 compares images of confirmed pain patterns with the pain areas entered by the patient, using distance measurements, to aid in comparing the pain patterns (para. [0045]).

Kang et al do not disclose images of the human body including digitizing and registering or a database of pain shapes of at least one clinical group. In the same field of endeavor, Miller '630 teaches of a method for automatic shape characterization including obtaining images by techniques that are known to transform image data into a digital image (i.e. digitizing) and registering images by using a transform function that transforms one set of data into another domain for forming a single composite image

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(col. 4, lines 26-65). In addition, Miller '630 teaches that the images are entered into the database and classified into different clinical groups made up of images from a plurality of patients with varying degrees of operator intervention (col. 4, line 66-col. 5, line 17). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate teachings of Miller '630 in order to improve patient pain diagnosis.

Further, it would have been obvious to one with ordinary skill in the art at the time the invention was made, in light of the distance measurements disclosed by Kang et al, to calculate a centroid or meta-centroid based on the location of the outline of the pain shape in order to compare the pain diagrams and improve diagnosis.

6. **Claim 5** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kang et al** (US 2003/0139652) in view of **Miller et al** (US 6,611,630) and **Gupta et al** (US 5,848,121).

Kang et al and Miller et al substantially disclose all features of the current invention but do not specifically disclose usage of masks to focus body image analysis. In the same field of endeavor, Gupta et al teach of image transformation in digital subtraction angiography using user-provided match points as the basis for interpolation techniques that correct mismatches between a mask and an opacified image (see Abstract). While this method is not applied to pain diagrams, it would have been obvious to one with ordinary skill in the art at the time the invention was made to

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incorporate such teaching in order to match pain diagrams and better categorize pain shapes.

7. **Claim 6** is rejected under 35 U.S.C. 103(a) as being unpatentable over **Kang et al** (US 2003/0139652) in view of **Miller et al** (US 6,611,630) and **Miller et al** (US 6,553,152).

Kang et al and Miller et al substantially disclose all features of the current invention but do not specifically disclose providing anatomical landmarks identified visually and by palpation. In the same field of endeavor, Miller '152 teach of such anatomical landmarks (col. 3, lines 48-55). It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate usage of landmarks in order to help registration of images and correlate pain diagrams.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Rozanski whose telephone number is 571-272-1648. The examiner can normally be reached on Monday - Friday, 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eleni Mantis-Mercader can be reached on 571-272-4740. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MR

MR


ELENI MANTIS MERCADER
SUPERVISORY PATENT EXAMINER